

~~report and any other relevant evidence, the court shall determine whether the proceeding should be continued or not.~~

~~(d) Such action shall not be discontinued, dismissed, compromised or settled without the approval of the court. If the court shall determine that the interest of the shareholders or any class or classes thereof, or of the creditors of the corporation, will be substantially affected by such discontinuance, dismissal, compromise or settlement, the court, in its discretion, may direct that notice, by publication or otherwise, shall be given to such shareholders or creditors whose interests it determines will be so affected. If notice is so directed to be given, the court may determine which one or more of the parties to the action shall bear the expense of giving the same, in such amount as the court shall determine and find to be reasonable in the circumstances, and the amount of such expense shall be awarded as costs of the action.~~

~~(e) If the action on behalf of the corporation is successful, in whole or part, whether by means of a compromise and settlement or by a judgment, the court may award the plaintiff the reasonable expenses of maintaining the action, including reasonable attorneys' fees, and shall direct the plaintiff to account to the corporation for the remainder of any proceeds of the action.~~

~~(f) In any such action the court, upon final judgement and a finding that the action was brought without reasonable cause, may require the plaintiff or plaintiffs to pay to the defendant or defendants the reasonable expenses, including attorneys' fees, incurred by them in the defense of the action.~~

~~(g) In addition to all other provisions of this section, any action brought on behalf of a corporation that is a public corporation at the time of such action against one or more of its directors for monetary damages the plaintiff or plaintiffs must (i) allege, and it must appear, that each plaintiff has been a shareholder or holder of a beneficial interest in shares of the corporation for at least one year; (ii) bring the action within two years of the date of the transaction of which he complains; and (iii) execute and deposit with the clerk a written undertaking with sufficient surety, approved by the judge, in an amount to be fixed by the judge to indemnify the corporation against any and all expenses expected to be incurred by the corporation in connection with the proceeding, including those arising by way of indemnity, if the court in its discretion so requires.~~

~~(h) In proceedings hereunder, no shareholder shall be entitled to obtain or have access to any communication within the scope of the corporation's attorney-client privilege which could not be obtained by or would not be accessible to a party in an action other than on behalf of the corporation.~~

Subject to the provisions of G.S. 55-7-41 and G.S. 55-7-42, a shareholder may bring a derivative proceeding in the superior court of this State. The superior court has exclusive original jurisdiction over shareholder derivative actions.

"§ 55-7-40.1. Definitions.

In this Part:

- (1) 'Derivative proceeding' means a civil suit in the right of a domestic corporation or, to the extent provided in G.S. 55-7-47, in the right of a foreign corporation.